

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1913.02
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	May 13, 2002
DATE OF REPORT:	June 18, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	October 4, 2002

The original deadline for this report was June 12, 2002. However, due to the need for additional time to complete the investigation report, the associate superintendent extended the deadline on that date to June 18, 2002.

**COMPLAINT ISSUES:**

Whether the MSD of Martinsville violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to allow the student to utilize the Dynavox;
- b. failing to provide the Student with opportunity to utilize the computer;
- c. failing to provide the parent with progress reports; and
- d. failing to implement the goals and objectives.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 by failing to ensure the student's teacher of record (TOR):

- a. provided progress reports to the parent as required by the IEP; and
- b. regularly monitored the implementation of the student's IEP.

511 IAC 7-21-2(a) by failing to ensure the student's teacher is appropriately licensed.

511 IAC 7-21-2(a) and (b) by allowing a paraprofessional to provide instruction to the student.

During the course of the investigation, an additional issue was identified as whether the school failed to comply with:

511 IAC 7-27-6(a)(7) by failing to include in the student's IEP a statement of how the student's parents will be regularly informed of the student's progress on annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the 12-month period.

**FINDINGS OF FACT:**

1. The student (Student) is 15 years old, is in the 9<sup>th</sup> grade, and is eligible for special education and related services as a student with a mild mental disability.
2. The Student transferred to the current school in November 2001. One of the goals included in the November 26, 2001, IEP states: "Student will use sign, gesture, picture or augmentative device in

meaningful communicational interactions.” However, the IEP does not specify the Dynavox as an augmentative device to be used in the special education classroom. The IEP dated November 26, 2001, does not discuss the use of the computer in the Student’s special education classroom.

3. The Complainant states that she received a progress report dated January 9, 2002, and a report card dated February 23, 2002. The IEP dated November 26, 2001, states that the classroom teacher will evaluate the Student’s progress at the end of each trimester. The November 2001, IEP does not specify how or when the Complainant will be notified of the Student’s progress on the IEP goals. The Student enrolled on December 3, 2001, for the second and third trimesters of the 2001-2002 school year that ended on February 22 and May 29, 2002, respectively. The Teacher submitted copies of the student’s progress reports dated January 9, 2002, and April 17, 2002, and a copy of the Student’s report card dated February 23, 2002, for the second trimester. The Complainant states she did not receive a progress report dated April 17, 2002.
4. The Complainant alleges that the Student’s goals and objectives were not implemented in the classroom, but she is unable to identify specific instances in which the goals and objectives were not implemented. The Student’s goals for the classroom addressed sign language, occupational therapy, communication skills, functional academics, math, and reading. The classroom teacher reported that the Student’s education included sign language and vocabulary words from stories introduced in the reading text, stories programmed on his Dynavox for comprehension, and flashcards and bingo for spelling practice. The Student also participated in art, a social skills class, and a math class. In the Student’s progress report dated April 17, 2002, and report card dated February 23, 2002, the teacher addresses the Student’s progress on the IEP goals.
5. The Complainant alleges that the Teacher’s certification has expired. The Teacher’s license shows an expiration date of February 11, 2002.
6. The Complainant alleges that the Student receives no direct instruction from the classroom teacher, but she could not identify specific instances when this allegedly occurred. The Teacher reported that there are 10 students in the classroom with four paraprofessionals and a peer tutor program, but direct instruction is difficult. The Teacher also stated that due to the Student’s hearing impairment, the Student receives more direct instruction from her than any other student in the classroom. The Student received 5-10 minutes of direct instruction from the classroom teacher for each academic task assigned; the peer tutor or the paraprofessional would then review the task with the Student.

## **CONCLUSIONS:**

1. Finding of Fact #2 reflects the Student’s IEP, dated November 26, 2001, does not require utilization of the Dynavox or access to a computer. Therefore, no violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 indicates that the November 2001 IEP does not specify how or when the parent will be notified of the Student’s progress. The Teacher sent one progress report during the second trimester, a report card at the end of the second trimester and one progress report during the third trimester. Therefore, no violation of 511 IAC 7-27-7(a), 511 IAC 7-17-72, or 511 IAC 7-27-7(b) is found. However, a violation of 511 IAC 7-27-6(a)(7) is found with respect to the IEP not specifying when or how the parent will receive progress reports during the school year.
3. Finding of Fact #4 indicates that the goals and objectives identified in the Student’s IEP dated November 26, 2001, were implemented in the classroom during the instructional day. The classroom teacher addressed the Student’s progress on the goals included in the November 26, 2001, IEP in two

progress reports and one report card. Therefore, no violation of 511 IAC 7-27-7(a) or 511 IAC 7-17-72 is found.

4. Finding of Fact #5 indicates that the teacher's license expired on February 11, 2002. However, pursuant to 515 IAC 1-2-3, a teacher's license is considered valid for the school year if it is valid on the first day of the school year. Therefore, no violation of 511 IAC 7-21-2(a) is found.
5. Finding of Fact #6 indicates that the Student receives direct instruction from the classroom teacher throughout the school day, and is then supervised by a paraprofessional or a peer tutor. Schools may allow paraprofessionals who are "appropriately trained to work under the direction and supervision of licensed teachers or related services personnel to assist students in areas that relate to personal, social, and educational needs." Therefore, no violation of 511 IAC 7-21-2(a) and (b) is found.

**The Department of Education, Division of Exceptional Learners requires the following corrective action corrective action based on the Findings of Fact and Conclusions listed above.**

The MSD of Martinsville shall:

Convene the CCC and determine how and when the Complainant will be notified of the Student's progress on the goals included in the Student's IEP for the school year 2002-2003 school year. **A copy of the CCC Report/IEP shall be submitted to the division no later than September 10, 2002.**